

REMARKS

The Office action mailed 10 January 2008, has been received and its contents carefully noted. Reconsideration in view of the following remarks is respectfully requested.

Restriction Requirement

In the Office action mailed 10 January 2008, the Examiner required a restriction as follows:

Group I, claims 1-4, drawn to a benzopyrone compounds, represented by generic formula (I).

Group II, claim 5, drawn to a preparation method of benzopyrone compounds, represented by generic formula (I).

Group III, claim(s) 6-7, drawn to a method of use of benzopyrone compounds, represented by generic formula (I).

Group IV, claim 8, drawn to a composition of fungicides and insecticides comprises benzopyrone compounds, represented by generic formula (I).

The Examiner deemed that the inventions of Groups I through IV are distinct and unrelated to each other.

Applicants hereby elect to prosecute the claims of Group I (claims 1-4), with traverse.

This election is made with traverse. Applicants respectfully point out that the claims relate to a single general inventive concept under PCT Rules 13.1 and 13.2. Specifically, the single general inventive concept is a benzopyrone compound represented by formula (I) which, as claimed, excludes the compounds disclosed in JP 2897789B (D1) by the limitation "wherein, when R₃, R₄, R₅, R₆, R₇, and R₈ are all hydrogen, B is no NR₉". Thus, the compounds of the instant claims are different from the compounds disclosed in JP 2897789B. Consequently, JP 2897789B does not destroy the novelty of the present invention, as claimed, and the claims of Groups I-IV do meet the requirement of a single general inventive concept. Applicants also direct the Examiner's attention to the International Preliminary Report on Patentability received in the PCT/CN2004/001255 (which this application is a national stage entry) which indicates that JP 2897789B does not destroy the novelty and inventive step of claimed invention. Therefore, Applicants respectfully submit that restriction of claims 1-8 is improper and the restriction requirement should properly be withdrawn.

Election of Species

The Examiner also required an election of species. The Examiner, however, did not sufficiently identify the applicable species and instead simply referred to the examples disclosed in the specification.

As Applicants are unclear as to which examples the Examiner intends to refer to, Applicants are unable to respond to the election of species requirement with any specificity. Thus, Applicants respectfully request the Examiner either clarify or withdraw the species requirement.

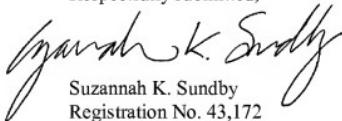
However, in order for Applicant's to meet their burden of being fully responsive to this species requirement, Applicants elect the species which are applicable to the claims of Group I with traverse and, based on the particular species, a given claim or claims is generic or readable thereon. This election is with traverse as the Examiner's species requirement is unclear.

CONCLUSION

This election is made without prejudice to or disclaimer of the other claims or inventions disclosed. The right to file one or more divisional applications to the non-elected groups is respectfully reserved. Applicants also reserve the right to pursue any claims canceled as a result of this Office Action in a continuing application without prejudice or disclaimer. Accordingly, reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, in the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required therefor are hereby authorized to be charged to our **Deposit Account No. 02-4300**, Attorney Docket No. **034226.002**.

Respectfully submitted,



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